



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

ELIZABETH HERTEL  
DIRECTOR

**IV-D MEMORANDUM 2021-010**

**TO:** All Friend of the Court (FOC) Staff  
All Prosecuting Attorney (PA) Staff  
All Office of Child Support (OCS) Staff

**FROM:** Erin P. Frisch, Director  
Office of Child Support

**DATE:** April 29, 2021

**SUBJECT:** Criteria for IV-D Reimbursement of Paternity Disestablishment Activities and Introduction of Section 4.06, "Paternity Disestablishment," of the *Michigan IV-D Child Support Manual*

**ACTION DUE:** County IV-D partners will determine the office responsible for paternity disestablishment services and email their decision to their OCS contract manager by **June 30, 2021**

**POLICY EFFECTIVE DATE:** Upon receipt

**PURPOSE:**

This IV-D Memorandum introduces Section 4.06, "Paternity Disestablishment," of the *Michigan IV-D Child Support Manual*. Section 4.06 provides policy regarding IV-D services to disestablish paternity under the Revocation of Paternity Act (RPA).<sup>1</sup> It discusses:

- Required case criteria to qualify for IV-D disestablishment services; and
- IV-D-reimbursable and non-reimbursable RPA activities.

This IV-D Memorandum also introduces two exhibits created to assist IV-D staff in the implementation of policy in Section 4.06:

- Exhibit 4.06E1, Additional Questions and Answers Regarding Section 4.06, "Paternity Disestablishment"; and
- Exhibit 4.06E2, Criteria for IV-D Reimbursement of Genetic Testing in Actions Under the Revocation of Paternity Act (RPA).

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<sup>1</sup> Michigan Compiled Law (MCL) 722.1431 – 722.1445

**UPDATE(S):**

☒ Manual

☐ Form(s)

Section 4.06 replaces and obsoletes IV-D Memorandum 2012-026, *Revocation of Paternity Act* and Exhibit 2012-026E1, RPA Letter.

Finally, this IV-D Memorandum announces an updated table of contents for the *Michigan IV-D Child Support Manual*. Section 4.06, “Paternity Disestablishment,” has been added to the table of contents, along with asterisks at the end of the section title to indicate the availability of this new manual section.

## DISCUSSION:

### RPA Background and Overview

The Michigan Legislature enacted the RPA in June of 2012. The RPA expanded which parties have legal standing to challenge paternity<sup>2</sup> and introduced four methods that filing parties must use to disestablish paternity. Section 4.06 describes these four methods and specific case circumstances in which the RPA limits revocation actions.

Depending on the method used for establishing paternity, the RPA allows a filing party to request that the court:

- Revoke an *Affidavit of Parentage* (AOP);<sup>3</sup>
- Set aside an order of filiation;<sup>4</sup>
- Determine that a child is born out of wedlock<sup>5</sup> when the presumed father<sup>6</sup> is found to not be the child’s father; or
- Determine that a genetic father is not a child’s father.<sup>7</sup>

The RPA allows mothers, legal fathers, alleged fathers, PAs, or the Michigan Department of Health and Human Services (MDHHS) to file the paternity disestablishment action.

The IV-D program will provide **limited services in specific circumstances** related to paternity disestablishment. Parties and their attorneys are responsible for initiating and progressing court proceedings at their own expense to obtain a legal revocation of paternity.

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<sup>2</sup> Prior to the enactment of the RPA, a third party did not have legal standing to challenge paternity in cases where a child already had an established father.

<sup>3</sup> MCL 722.1437

<sup>4</sup> MCL 722.1439

<sup>5</sup> MCL 722.1441

<sup>6</sup> MCL 722.1433 defines a “presumed father” as “a man who is presumed to be the child’s father by virtue of his marriage to the child’s mother at the time of the child’s conception or birth.”

<sup>7</sup> MCL 722.1438

## **Required IV-D Case Criteria for IV-D Reimbursement**

IV-D services for paternity disestablishment will be permitted in IV-D cases that meet all the required criteria described in Section 4.06. In doing so, the IV-D program will reduce the cost of an expensive component that parties encounter while supporting the courts' efforts in correctly identifying a child's legal father. The criteria will assist IV-D workers in determining which RPA activities are considered eligible for Title IV-D reimbursement. Section 4.06 also identifies RPA activities the Michigan IV-D program has determined to be non-reimbursable expenses.

Section 4.06 is not intended to dictate any of the following:

- Which party can file a disestablishment action;
- How a party is to file a disestablishment action; or
- When a disestablishment action should be filed.

Policy guidance outlined in Section 4.06 begins only after a party has filed a motion for paternity disestablishment and the court has ordered genetic testing. Section 4.06 is intentionally silent on specific judicial requirements necessary to file a disestablishment action. The court, judge and parties involved in the RPA action must have taken the appropriate steps pursuant to state law, court rules, and case law by the time the request for IV-D disestablishment services has reached the IV-D program.

Many RPA activities performed will not be considered IV-D-reimbursable, even if they are authorized under the RPA. There are no federal requirements mandating the IV-D program to provide disestablishment services. Prior to the publication of Section 4.06, IV-D policy guidance<sup>8</sup> deemed all disestablishment services as not IV-D-reimbursable. After discussions with program partners, OCS agreed to provide policy guidance allowing specific actions in disestablishment proceedings to be considered IV-D-reimbursable.

Section 4.06 requires that these limited IV-D disestablishment services be provided by every county to ensure program participants receive equitable services across the state.

## **IV-D-Reimbursable RPA Activities**

Providing genetic testing services in RPA cases will be a IV-D-reimbursable activity. Section 4.06 discusses IV-D worker actions in response to genetic test results. It also discusses IV-D worker actions when a party does not comply with the court-ordered RPA process, including an order for genetic testing. IV-D reimbursement will be allowable for activities related to genetic testing even if adjudication of the current legal father was initiated by PA or FOC staff while providing IV-D services.

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<sup>8</sup> The now obsolete IV-D Memorandum 2012-026 provided this guidance to IV-D staff.

## **Responsibilities for IV-D Workers As a Result of a Court Determination Revoking Paternity**

Section 4.06 explains IV-D worker responsibilities relative to the following decisions that could be made by the court under an RPA action:

- The court determines the legal father on the IV-D case is not the biological father;
- The court grants the motion to disestablish paternity;
- The court decides that the existing court order will end; and
- The court denies the motion to disestablish paternity.

### **NECESSARY ACTION:**

By June 30, 2021, local county IV-D partners must determine the office – PA or FOC – best positioned to provide paternity disestablishment services. Each county will email their decision to their OCS contract manager; the county will include the other county partner in the email. In the absence of a decision, OCS will identify the office responsible for providing disestablishment services for the county.

Review Section 4.06 of the *Michigan IV-D Child Support Manual* in its entirety since this is the first publication of this document. For those maintaining a hard copy of the manual, print Section 4.06, Exhibit 4.06E1, Exhibit 4.06E2, and the updated table of contents, and add them to the manual.

With the publication of Section 4.06, IV-D Memorandum 2012-026 and Exhibit 2012-026E1 are obsolete.

### **REVIEW PARTICIPANTS:**

Establishment Work Improvement Team  
Case Management Work Improvement Team  
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### **CONTACT PERSON:**

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### **CC:**

None

## **SUPPORTING REFERENCES:**

Federal

None

State

MCL 722.1431 – 722.1445

## **ATTACHMENTS:**

Section 4.06: Paternity Disestablishment

Exhibit 4.06E1: Additional Questions and Answers Regarding Section 4.06, "Paternity Disestablishment"

Exhibit 4.06E2: Criteria for IV-D Reimbursement of Genetic Testing in Actions Under the Revocation of Paternity Act (RPA)

*Michigan IV-D Child Support Manual* Introduction and Table of Contents

**EPF/KRB**